IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO WESTERN DIVISION AT DAYTON

UNITED STATES OF AMERICA, : Case No. 3:15-cr-169(2)
Also 3:19-cv-41

Plaintiff,

- vs - District Judge Thomas M. Rose

Magistrate Judge Michael R. Merz

ANTHONY J. SPIVA,

Defendant.

ORDER STRIKING OBJECTIONS

This § 2255 case is before the Court on Defendant's Objections (ECF No. 170) to the Magistrate Judge's Report and Recommendations (ECF No. 168).

The Report was filed and served on May 30, 2019. As Defendant was advised, this made his deadline for filing objections June 17, 2019. Because of the mailbox rule in *Houston v. Lack*, 487 U.S. 266 (1988), Defendant's Objections would have been timely if deposited in the prison mail system by that date. The Objections were not received at the Court until June 27, 2019, ten days past the due date and three days after Judge Rose adopted the Report and dismissed the case. Although Defendant included a Certificate of Service in the Objections, the dates in it are blank and it is unsigned (PageID 969). In fact the Objections themselves are undated and unsigned (PageID 949).

Accordingly, the Objections are untimely and are hereby STRICKEN.

June 27, 2019.

s/ **Míchael R. Merz**United States Magistrate Judge